

In re Applications of:
Frank S. MAGGIO

U.S. Patent Application Nos.:
10/683,939
11/657,384
11/712,861

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:	:
:	Attorney Docket Nos.:
:	066-0003
:	066-0010
:	066-0016
:	:

PETITION UNDER 37 C.F.R. §1.182

Director of the U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

My name is Frank Maggio, and I am a small business owner who has submitted 25+ U.S. patent applications since 2000. I have personally invested over \$1 million in legal fees to submit and defend inventions that I believe are critical in allowing U.S. based media, technology, and wirelessly enabled device manufacturing companies to remain competitive in these difficult times.

I am by this correspondence petitioning the United States Patent and Trademark Office ("USPTO") to review the current art unit and classification designations of three of the twelve non-provisional patent applications pending. These three patents have been clearly misclassified and deserve to be classified and reviewed by the art units with the expertise needed to thoroughly review these inventions.

BACKGROUND. My first patent submittal was correctly placed in the Business Process Patent art unit, and in 2003 was eventually issued patent 6,606,745. The process of obtaining the patent was arduous, in large part due to the apparent disdain that patent examiner James Myhre has for business process patents in general. Upon my first and only meeting with Mr. Myhre, counsel and I were informed by Mr. Myhre that his nickname within the USPTO

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was "the Hatchet Man." He proudly touted that he had, to his knowledge, the lowest patent acceptance ratio of any examiner at the USPTO, at an abysmal issue rate of 17%.

As I hope you can imagine, as an American who appreciates and relies upon the Constitutional protection afforded to me in my quest to have my inventions protected, I was completely taken aback by this mindset. However, in light of the eventual issuance of our patent, I perceived (incorrectly) that this art unit was making an effort to cooperate, with the goal being to issue, and not reject, patents. With this belief, I submitted another 20+ patents to the USPTO over the following 8 year period.

Unfortunately, as the balance of my patents entered the review process, two systemic issues became evident -- first, Mr. Myhre had been promoted, and his "proactive rejection" mindset had spread like a virus throughout the art unit. It has become common knowledge that his entire art unit had adopted an attitude of blanket rejections, evidenced by the fact that several junior examiners with over two years of tenure had yet to approve a single patent in this art unit. From what we have gleaned, patent issuances in this art unit has reached single digit percentages over the last 48 months.

Secondly and even more disturbingly, despite the fact that nearly 50% of my patents have been device-oriented patents that deserved to be reviewed outside of the toxic Business Process art unit, most patents, despite their correct classifications, have been improperly placed into the Business Process art unit for review and, ultimately, for a near rubber-stamp rejection.

During the review process of these subsequent patents, almost without exception, prior art arguments have been taken outside of the Business Process art unit; however, while competing inventors to my devices and inventions ARE being granted patents because they are outside of the business process art unit, my inventions are being denied.

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In short, I have exhausted my capacity and willpower to fund what has become a depressingly expensive and fruitless endeavor to obtain U.S. patent protection for business processes.

FORMAL REQUEST. At this juncture, I have twelve non-provisional patents remaining at the USPTO for examination. I have had to abandon nine non-provisional patents to date, many of which I am convinced could have been issued patents of some value, had they been placed in the proper art units for examination in the first place, or had the USPTO made a discernable effort to allow business process patent protection.

Of the twelve non-provisional patents that are in process and have not had to be abandoned, five have begun the examination process, and seven more remain to be examined for the first time.

Attached to this correspondence is a matrix containing five of these non-provisional applications. I am providing you with details of each invention, their status, the art units that have been designated, and the relevant classifications under which it should be placed and reviewed.

Three of these applications (designated by highlighted Serial No. and Art Unit designations) are currently assigned to Business Process Art units, and should be redirected to the proper art units, as follows:

- * **Serial 11/657,384 – VAST Ratings.** Currently assigned to art unit 3692 (Business Process). This application is docketed for initial review in early January, 2010. The subject matter relates to device-oriented media ratings technology. The relevant classification according to the USPTO is 340 (Communications -- Electric), which places this application into art unit 2612 and NOT 3692. By way of example, a related

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application of mine illustrated in the attached matrix, Serial 11/897,761, for Consumer-owned TV ratings, docketed for review in three months after the VAST Ratings application, was appropriately classified to 348 (Television), and is placed in the 2423 Art Unit. **I HEREBY REQUEST THAT APPLICATION 11/657,384 be properly relocated to the 2612 (or 2423) Art Unit.**

- Serial 10/683,939 – Reactive Remote Control Device. Currently assigned to art unit 3688 (Business Process). This application has been reviewed by the wrong art unit, and is pending final action with a December 1, 2009 response deadline. The subject matter relates to wireless remote control devices, and the relevant classification according to the USPTO itself, is 348 (Television), properly placing it in the 2622 art unit. (NOTE – This is the second improperly classified application in the remote control space; the first application, 10/976,149, was abandoned due to our inability to obtain an allowance from the Business Process art unit). By way of further example, a related application of mine illustrated in the attached matrix, Serial 11/697,577, for Pit-Pass Remote Control Device, docketed for review in February of 2010, was more appropriately classified to 345 or 725, and is placed outside the Business Processes, into the 2612 Art Unit. **I HEREBY REQUEST THAT APPLICATION 10/657,384 be properly and IMMEDIATELY relocated to the 2622 (or 2612) Art Unit.** This patent is time-sensitive since it has already received a Final Office Action.
- Serial 11/712,861 – CiviConnect Wireless Constituency Management Technology. Currently assigned to art unit 3621 (Business Process). This application is docketed for initial review in February of 2010. The subject matter relates to the use of Internet-

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connected devices, including wireless reactive remote controls, for the purposes of facilitating voting on televised content, and managing constituents and elected officials.

This application is more properly to be located in Classification 340, 348, or 725/Art Unit 2423 (Interactive Video Distribution Systems), and NOT in 3621. **I HEREBY REQUEST THAT APPLICATION 11/712,861 be properly relocated to the 2612 or 2423 Art Unit.**

In closing, I am sincerely and urgently requesting that you please expeditiously review and subsequent approval that the three aforementioned applications be moved to the proper art units. These three patents do not belong in the gallows of the business process art unit, and your defense and expeditious granting of this request would be most appreciated.

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CONCLUSION


Granting of this Petition is earnestly solicited. Payment for the Petition fee is being paid electronically by credit card.

Respectfully submitted,

Date: November 4, 2009

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MEDIA IP HOLDINGS -- Overview of Patent Applications Requiring Art Unit Review

Docket No. Invention Name	Serial No. Link to Patent Application	Current Art Unit Proper Class/Subclass Proper Art Unit	Status Overview of Invention
066-0010 VAST TV Ratings	11/557,384 LINK HERE	3692 340/539.11 2612	NOTE: Highlighted Art Units Are Inconsistent with Subject Matter Docketed, ready for exam; approx 4 months before First Action A system for characterizing audiences of multiple media types, by utilizing Venue and System-specific targeted devices, each ideally suited for measuring one or more media formats, and extrapolating from this data demographic information about the audience as a whole. Requesting relocation to proper Art Unit.
066-0015 Consumer Owned TV Ratings	11/597,761 LINK HERE	2423 348/E7.07	Docketed, ready for exam; approx 7 months before First Action Extrapolation of consumer-owned set top box data which measures consumption of TV content behavior, and applying analytics that provides viewing behavior insights to the subset of consumers providing data access, as well as the entire viewing audience.
066-0003 Reactive Remote Control Device	10/683,939 LINK HERE	3688 348/E7.054; 348/E7.071 2622	Pending Final Action with December 1, 2009 initial response deadline. Interactive remote controls each operated by a respective recipient transmit a channel control signal to tune a broadcast receiver to a station channel upon which the broadcast content is presented. The controls also receive a query that verifies attention to the ads or content, presents the query to a recipient, accepts input of a response to the query, and transmits the response to the client computer. Each correct response verifies exposure of the responding recipient to the selected content portion.
066-0017 Pit Pass Remote Control Device	11/597,577 LINK HERE	2612 345/169; 725/023	Requesting relocation to proper Art Unit. Docketed, ready for exam; approx 5 months before First Action Automobile race TV viewers can use a remote control with the form factor and functionality of a standard remote control to receive data and interact with the automobile race and advertising content. Race viewers can utilize the remote control to interact with race and advertisement broadcast during the race by answering related questions.
066-0016 "CiviConnect" Wireless Constituency Management Technology	11/712,861 LINK HERE	3621 340; 348; 725 2612 or 2423	Docketed, ready for exam; approx 5 months before First Action The invention supports a method for notifying constituents about live discussions and debates on issues via an internet-based wireless or winax broadband network, during which constituents and officials become better educated. A database stores input from each constituent so that elected officials can review opinion patterns. Constituents can access a database of the voting records of officials.
			Requesting relocation to proper Art Unit.